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KERALA GAZETTE

EXTRAORDINARY

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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 6569/LA4/81. *Dated, Trivandrum, 16th July,* 1981.

The Kerala General Sales Tax (Amendment) Bill, 1981 together with the Statement of Objects and Reasons, the Financial Memorandum is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. Prasannan,
Secretary.
Legislative Assembly.

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33/2583/MC

Sixth Kerala Legislative Assembly

Bill No. 84

THE KERALA GENERAL SALES TAX (AMENDMENT) BILL, 1981

A

BILL

further to amend the Kerala General Sales Tax Act, 1963.

Preamble.—WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963, for the purposes hereinafter appearing;

BE it enacted in the Thirty-second Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala General Sales Tax (Amendment) Act, 1981.

(2) It shall be deemed to have come into force on the 1st day of April, 1981.

2. *Amendment of section* 5.—In section 5 of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act),—

   (a) in sub-section (1), for the words "thirty-five thousand rupees", the words "fifty thousand rupees" shall be substituted;

   (b) in sub-section (2), for the words "ten thousand rupees", the words "fifteen thousand rupees" shall be substituted.

3. *Amendment of section* 5A.—In section 5A of the principal Act,—

   (a) in sub-section (2), for the words "thirty-five thousand rupees" and "ten thousand rupees", the words "fifty thousand rupees" and "fifteen thousand rupees" shall respectively be substituted;

   (b) in sub-section (3), for the words "thirty-five thousand rupees" and "forty thousand rupees", the words "fifty thousand rupees" and "fifty-five thousand rupees" shall respectively be substituted.

4. *Amendment of section* 7.—In section 7 of the principal Act, in sub-section (1), for the words "thirty-five thousand rupees" and "forty thousand rupees" the words "fifty thousand rupees" and "fifty-five thousand rupees" shall respectively be substituted.

5. *Amendment of section* 13.—In section 13 of the principal Act,—

(a) in sub-section (1), for the words "thirty-five thousand rupees", the words "fifty thousand rupees" shall be substituted;

(b) in sub-section (2), for the words "ten thousand rupees", the words "fifteen thousand rupees" shall be substituted.

6. *Amendment of section* 17.—In section 17 of the principal Act, in sub-sections (4) and (6), for the words "one lakh rupees", the words "one lakh and fifty thousand rupees" shall be substituted.

7. *Amendment of section* 18.—In section 18 of the principal Act, in sub-section (2A), for the words "one lakh rupees", the words "one lakh and fifty thousand rupees" shall be substituted.

8. *Amendment of First Schedule.*—In the First Schedule to the principal Act,—

(a) in the entry in column (4), against serial number 36, for the figures "40", the figrues "50" shall be substituted;

(b) in the entry in column (2) against serial number 101, after the words "manufactured", the words "in mill or on handloom" shall be inserted.

9. *Amendment of Third Schedule.*—In the Third Schedule to the principal Act, in the entry against serial number 3, the following shall be inserted at the end, namely:—

"except silk fabrics woven on handlooms wholly or partly with mill yarn.".

STATEMENT OF OBJECTS AND REASONS

The Minister of Finance in his Budget Speech on the 20th March, 1981 has announced the following proposals in regard to sales tax:—

(1) the exemption limit for the levy of sales tax relating to multi point goods will be raised from rupees thirty-five thousand to rupees fifty thousand;

(2) the exemption limit of sales tax in the case of a single point goods will be raised from rupees ten thousand to rupees fifteen thousand;

(3) the limit up to which the facility for compounding is available will be raised from rupees forty thousand to rupees fifty-five thousand;

(4) in the case of simplified system of assessment, the annual turnover limit will be raised from rupees one lakh to rupees one lakh fifty thousand;

(5) sales tax on Indian made foreign liquor will be enhanced from 40% to 50%;

(6) sales tax will be levied at 7% at single point on handloom silk fabrics brought in for sale from outside the State.

2. The question of levying sales tax on handloom silk fabrics brought to this State for sale from outside the State has again been examined by the Government in the light of the representations received by them and accordingly it is considered that there should be no discrimination between handloom silk fabrics brought in for sale from outside the State and those produced within the State, for the purpose of levy of sales tax.

3. The Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

K. M. MANI

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Vol. XXVI] Trivandrum, Thursday, 16th July 1981 / 25th Ashadha 1903 [No. 562

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 6570/LA4A/81. *Dated, Trivandrum*, 16*th July*, 1981.

The Kerala Land Reforms (Amendment) Bill, 1981 together with the Statement of Objects and Reasons and the Financial Memorandum is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

DR. R. PRASANNAN,
Secretary.
Legislative Assembly.

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33/2585/MC.

Sixth Kerala Legislative Assembly

Bill No. 85

THE KERALA LAND REFORMS (AMENDMENT) BILL, 1981

A

BILL

further to amend the Kerala Land Reforms Act, 1963.

Preamble.—WHEREAS it is expedient further to amend the Kerala Land Reforms Act, 1963, for the purposes hereinafter appearing;

BE it enacted in the Thirty-second Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Land Reforms (Amendment) Act, 1981.

(2) Sections 2 to 5 (both inclusive) shall be deemed to have come into force on the 1st day of January, 1970 and the remaining provisions of this Act shall be deemed to have come into force on the 22nd day of June, 1981.

2. *Insertion of new section* 72QQ.—After section 72Q of the Kerala Land Reforms Act, 1963 (1 of 1964) (hereinafter referred to as the principal Act), the following section shall be inserted, namely:—

"72QQ.—*Cultivating tenant not liable to pay rent if resumption application is rejected.*—Notwithstanding anything contained in any law for the time being in force, or in any contract, custom or usage, or in any judgment, decree or order of any court or Land Tribunal, in the case of a holding or part of a holding in respect of which an application for resumption under the provisions of this Act is rejected, the cultivating tenant shall not be liable to pay any rent for such holding or part of the holding, as the case may be, with effect on and from the date notified under sub-section (1) of section 72.".

3. *Amendment of Section* 72S.—Section 72S of the principal Act shall be re-numbered as sub-section (1) of that section and, after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) In the case of a holding or part of a holding in respect of which an application for resumption under the provisions of this Act is rejected, the cultivating tenant shall be liable to pay the basic tax and other taxes and cesses in respect of such holding or part of the holding, as the case may be, with effect on and from the date notified under sub-section (1) of section 72.".

4. *Amendment of section* 84.—In section 84 of the principal Act, after the proviso to sub-section (1A), the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the purposes of clause (b), a land shall be deemed to have been assigned on registry if the purchase price payable for the assignment of that land or the first instalment thereof has been deposited as required by the rules made under this Act.".

5. *Amendment of section* 85.—In section 85 of the principal Act, after sub-section (6), the following sub-section shall be inserted, namely:—

"(6A) For the removal of doubts it is hereby declared that proceedings for the determination of the extent and other particulars of any land, the ownership or possession or both of which is or are to be surrendered by an adult unmarried person or a family, shall not abate on the death of that adult unmarried person or, as the case may be, the sole surviving member of that family where it consists of only one person, or the member of that family who filed the statement under this section or under section 85A in the case of any other family, but shall be continued against the legal representatives of such adult unmarried person or sole surviving member or the remaining member or members of such family, as the case may be, and such legal representatives or remaining member or members shall be bound to surrender the same extent of land as such adult unmarried person or sole surviving member or such family would have been liable to surrender, if such adult unmarried person or sole surviving member or the person who filed such statement, as the case may be, were alive on the date of determination of the extent and other particulars of the land.".

6. *Amendment of section* 109A.—In sub-section (1) of section 109A of the principal Act,—

(a) in the first proviso, for the words "five hundred rupees", the words "one thousand five hundred rupees" shall be substituted;

(b) in the second proviso, in clause (a), for the words "two thousand rupees", the words "five thousand rupees" shall be substituted.

7. *Transitory provisions.*—Notwithstanding any thing contained in any judgment, decree or order of any court or other authority, where any proceeding under the principal Act for the determination of the extent and other particulars of any land, the ownership or possession or both of which is or are to be surrendered by an adult unmarried person or a family, has been discontinued on the ground that such adult unmarried person, or the sole surviving member of the family in the case of a family having only one member, or the person who filed the statement under section 85 or under section 85A of the principal Act in the case of any other family, has died before such determination, the Land Board or the Taluk Land Board, as the case may be, shall, within a period of one year from the date of publication of the Kerala Land Reforms (Amendment) Ordinance, 1981, in the Gazette, restore to file such proceeding

and continue the same impleading the legal representatives of such adult unmarried person or sole surviving member or the remaining member or members of that family, as the case may be, and such legal representatives or, as the case may be, the remaining member or members shall be bound to surrender the same extent of land as such adult unmarried person or sole surviving member or the family, as the case may be, would have been liable to surrender if such adult unmarried person or sole surviving member or the person who filed such statement, as the case may be, were alive on the date of determination of the extent and other particulars of the land:

Provided that nothing contained in this section shall be deemed to affect a *bonafide* purchaser for consideration of any land from such legal representatives or the remaining member or members of such family.

8. *Repeal and saving.*—(1) The Kerala Land Reforms (Amendment) Ordinance, 1981 (5 of 1981) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance or under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under this Act or, as the case may be, under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Sections 14 to 17 and section 19 of the Kerala Land Reforms Act, 1963, provide for resumption of lands from tenants by certain landlords. Sub-section (1) of section 72 of the Act provides that on a date notified by the Government (the date so notified is 1-1-1970) all right, title and interest of the landlords and intermediaries in respect of holdings held by cultivating tenants shall vest in the Government free from all encumbrances. But the proviso to that sub-section states that the above provision shall not apply to any land in respect of which an application for resumption was pending on the said date before a court or Tribunal or in appeal or revision. According to sub-sections (2) and (4) (b) of section 72, where an application for resumption of a holding or part of a holding has been filed, the right, title and interest of the landlord in respect of the holding or part of the holding shall vest in the Government only on the date when the application is finally rejected.

2. There was no provision in the Act prohibiting the landlords from collecting rent from their tenants after 1-1-1970 for a holding in respect of which the right, title and interest of the landlords have not vested in the Government on the said date but only subsequently. As the right, title and interest of the landlords in the case of holdings in respect of which resumption applications have been filed vest in the Government only on the date on which such applications are rejected, such landlords were entitled to collect rent for the holdings till the date of such rejection which would be subsequent to 1-1-1970.

3. Representations have been received by the Government from a number of tenants pointing out that the landlords have filed suits for realisation of arrears of rent for the holdings in respect of which resumption applications have been rejected, for the period after 1-1-1970 till the date of such rejection. It was considered that there was no justification for the collection of rent for the period after 1-1-1970 because the rejection of the resumption applications shows that the landlords were not entitled to file such applications and consequently their right, title and interest in the holdings would have vested in the Government on 1-1-1970 had not such applications been filed and the tenants would not have been liable to pay any rent for such period. It was therefore considered necessary to provide that the tenants shall not be liable to pay any rent from 1-1-1970 for a holding or part of a holding in respect of which an application for resumption has been rejected.

4. It was also considered necessary to insert a new sub-section (2) in section 72S making the cultivating tenants liable to pay basic tax and other taxes with effect from the date notified under sub-section (1) of section 72, for a holding or part thereof in respect of which an application for resumption is rejected.

5. Clause (b) of the proviso to sub-section (1A) of section 84 inserted by the Kerala Land Reforms (Amendment) Act, 1979, provides that the said sub-section shall not apply in respect of any land which has been assigned on registry under section 96 before the commencement of the said Amendment Act of 1979. Doubts have been raised as to the exact time at which a land shall be deemed to be assigned on registry. It was considered necessary to clarify the position by inserting a new *Explanation* to the effect that a land shall be deemed to have been assigned on registry if the purchase price payable for the assignment of that land or the first instalment thereof has been deposited as required by the rules made under the Act.

6. The Kerala High Court in CRP. 35/77 E. held that in as much as there is no provision in the Act for continuation of the proceedings for taking over of excess lands initiated against a person who filed a statement under sub-section (2) of section 85 or sub-section (1) of section 85A, on the death of such person, against his legal representatives, such legal representatives are under no obligation to account for the surplus land, if any, held by the person who filed the statement and that the proceedings would lapse on his death.

7. The above decision directly applies only to a case where the declarant is an adult unmarried person. It might also apply to a case where the declarant is a sole surviving member. The decision does not apply where the declarant is a member of a "family" as defined in the Act. However, the High Court has set aside the orders of the Taluk Land Boards in several cases where the declarants were persons liable to file the statement on behalf of "family" as defined in the Act. The Taluk Land Boards also had dropped proceedings in several such cases wrongly relying on the above decision.

Therefore, it was considered necessary to specifically provide in the Act that proceedings before the Taluk Land Board shall not abate on the death of the declarant and that such proceedings shall be continued against the legal representatives in case such declarant is an adult unmarried person or the sole surviving member of a family or against the remaining members of the family in other cases.

8. According to section 109A of the Act, the maximum amount of solatium payable to a small holder was five hundred rupees. That section also provided that a small holder would not be entitled to solatium, if the compensation due to him exceeded two thousand rupees. It was considered that the solatium of five hundred rupees was too small an amount and should be enhanced to one thousand rupees and that small holders who get compensation upto four thousand rupees should be made eligible for the same.

9. Transitory provisions enabling the Land Board or the Taluk Land Board, as the case may be, to reopen all ceiling cases where the proceedings for determination of excess land had been dropped on the ground that the declarant had died before such determination and to continue such proceedings were also considered necessary.

10. A Bill, namely, the Kerala Land Reforms (Second Amendment) Bill, 1980 to make provisions for the above purposes was introduced in the Legislative Assembly during its budget session and referred to a Subject Committee. The Subject Committee recommended to adopt the Bill subject to modifications for enhancing the maximum amount of solatium payable to a small holder to Rs. 1500 and for providing that small holders who get compensation upto Rs. 5000 shall be entitled to solatium. However, the Bill as modified by the Committee could not be passed during the budget session for want of time.

11. In the interest of the proper and early implementation of the Kerala Land Reforms Act, it was considered necessary to give effect to the provisions of the Bill immediately and accordingly the Kerala Land Reforms (Amendment) Ordinance, 1981 was promulgated on the 22nd June, 1981.

12. The Bill seeks to replace the Ordinance by an Act of the State Legislature.

FINANCIAL MEMORANDUM

Clause 6 of the Bill seeks to amend section 109A of the Act for the following purposes, namely:—

(1) to enhance the solatium payable to small holders from five hundred rupees to one thousand five hundred rupees; and

(2) to provide that small holders who get compensation upto five thousand rupees shall be eligible for solatium (under the existing provision no small holder is entitled to solatium if the compensation payable to him exceeds two thousand rupees).

2. Solatium to small holders is met from the Agriculturist Rehabilitation Fund constituted under section 109 of the Act and therefore no expenditure from the Consolidated Fund of the State will have to be incurred by the enactment of clause 6 of the Bill.

P. S. SREENIVASAN